

DRAFT

Area-Wide Soil Contamination Task Force – Meeting 5 July 25, 2002, Tacoma, WA

Meeting Summary

The Area-Wide Soil Contamination Task Force met for the fifth time on July 25, 2002 in Tacoma. The objectives of this meeting were to:

- Review and discuss research progress and key project adjustments concerning sampling, preliminary estimates, and health monitoring
- Discuss relationships between elements of the project and key questions for the Task Force to consider in moving forward with the project
- Learn about the Model Toxics Control Act (MTCA) so Task Force members may consider if and when new approaches are needed to address area-wide soil contamination

This was the first meeting for two new Task Force members. Marcia Riggers from the Washington State Office of the Superintendent of Public Instruction and Jon DeJong of the Wenatchee School District were welcomed to the Task Force.

Project Adjustments

Confirmational Sampling Pilot Project

Jim Pendowski of the Department of Ecology (Ecology) reviewed the purpose and design of the Yakima County confirmational sampling pilot project, which involved soil sampling to test the utility of using old aerial photographs to identify areas where lead arsenate pesticides may have been used in the past. He explained that the Department has decided not to proceed further with the Yakima County pilot project, because of concerns Task Force members, elected officials, and others have expressed about the sampling and because the Nature and Extent Workgroup (Workgroup 1) has identified other ways to evaluate the screening tool using existing data.

As part of this presentation, Mr. Pendowski explained that other sampling efforts are ongoing or will occur during the next year. These efforts are not connected directly to the area-wide soil contamination project, but are being implemented by a wide range of public agencies, including local health departments, school districts, and Ecology, to define the extent of contamination, determine the need for early actions, and evaluate the success of cleanup actions at specific sites or areas. Mr. Pendowski and Julie Wilson of Landau Associates assured the Task Force that the project support team would keep the Task Force informed of these efforts and would bring relevant information forward to inform the Task Force's deliberations.

Update on Preliminary Estimates

Julie Wilson of Landau Associates presented recent work of the Nature and Extent Workgroup on preliminary estimates of the nature and extent of area-wide soil

contamination in Washington. Her presentation focused on the area of land near former smelters with arsenic and lead concentrations that exceed state cleanup levels and estimates of the area potentially contaminated with lead and arsenic from past use of pesticides. Dr. Wilson explained that the acreage estimates for areas with potential lead arsenate contamination presented at the last meeting were upper estimates derived from summing the areas of land where pesticides were applied over the years. The estimates she presented at this meeting, which were based on the acreage of apple and pear orchards in each county during its peak year of agricultural production, represent more realistic estimates of areas potentially contaminated with lead arsenate. Task Force members observed that the estimates of lead arsenate pesticide contamination provide a sense of the scale of the issue, but do not provide information on either the precise locations of contaminated areas or the range of arsenic or lead concentrations in those areas.

Letter Requesting Increased Health Monitoring

The Task Force co-chairs, Steve Kelley and Steve Gerritson, explained their intent to send the chartering agencies a letter requesting increased efforts to monitor the health of Washington residents who may be exposed to arsenic or lead and discussed the comments they had received on a draft of the letter sent to Task Force members. Task Force members discussed several changes to the letter, including:

- Ensuring that a broad population would be monitored in addition to the blood lead testing currently occurring for at-risk populations
- Clarifying the references to local health departments so that the letter does not imply a new mandate for them
- Making the request for increased health monitoring more general
- Clarifying the roles expected for chartering agencies other than the Department of Health
- Enlisting the school system in the health monitoring effort to increase awareness of potential issues
- Omitting the sentences that referred to the Task Force charter

The Task Force also discussed, but decided not to include in the letter, a request for a long-term epidemiological study on the health of people who have lived on orchards or other areas with area-wide soil contamination for a long time. Task Force members noted that such a study would require a considerable amount of money and would take many years to complete. Some Task Force members thought that a major research study would be useful and should be considered as a potential recommendation to the agencies, while other Task Force members thought that enough epidemiological evidence already exists on the impacts of soil contamination on humans.

Some Task Force members questioned the need for a letter to the agencies when they are participating as ex officio members of the Task Force. Jude Van Buren of the Department of Health explained that the Department is currently applying for a grant to conduct more health monitoring research and that a letter such as the draft letter from the co-chairs could help in securing additional funding for blood lead testing and related efforts. She also presented a summary of research on lead poisoning in Washington

and data that have been collected on elevated blood lead levels in children for certain counties and major cities in the state.

Based on this discussion, Task Force members agreed to support the co-chairs in sending a letter requesting increased health monitoring to the chartering agencies that incorporates the changes they discussed. The contractor support team will work with the co-chairs to revise the draft health letter and will circulate a revised draft to the Task Force before it is sent to the chartering agencies.

Discussion of Project “Map”

Elizabeth McManus of Ross & Associates Environmental Consulting led a discussion with the Task Force on a draft “map” for the project. The map illustrates relationships among elements of the project and lists key questions for the Task Force to consider for each project element. It was designed as a tool to help the Task Force engage in conversations about central issues for the project and understand where individual members could best contribute their expertise. Ms. McManus explained that there probably would be work for Task Force members, organized in small groups (supported by agency and contractor support staff), in between meetings to make progress on these issues; this work would most likely consist of a couple of conference calls for each small group.

The Task Force discussed both the content and organization of the draft project map. Task Force members appreciated the idea of having a map to represent the Task Force’s work, but suggested different ways to organize the map. In particular, Task Force members suggested that:

- Health data, cost, and MTCA should be represented as overarching factors affecting all elements of the project, rather than as part of a sequence of actions
- The map should have a more linear orientation leading to the final outcome of the Task Force’s work—an index of Task Force findings and recommendations
- The sequence of topics influenced by considerations of health, cost, and MTCA that lead to the Task Force’s findings and recommendations should consist of:
 1. Nature and extent of contamination
 2. Protective measures – actions to address the contamination
 3. Institutional frameworks to ensure protective measures are implemented
 4. Funding sources and financing mechanisms
- There should be a place on the map to represent other issues not on the Task Force’s agenda that the Task Force might wish to note in its report

After describing this new orientation for the project map, Task Force members were asked to consider which of the four topics they would like to work on in small group conference calls between meetings. Each Task Force and *ex officio* member present volunteered for one or more of the small groups. The contractor support team will be contacting Task Force members to schedule the small group conference calls, starting with calls on nature and extent and protective measures.

Public Comments

There were two opportunities for public comment during the meeting. Audience members made the following comments during those opportunities.

Kris Holm of Water Resources Northwest noted that Ecology recently issued a draft construction storm-water National Pollutant Discharge Elimination System (NPDES) permit to an advisory committee that included a recommendation that storm water be monitored for arsenic and lead in areas affected by area-wide soil contamination. She urged the Task Force to ask the agencies to explain how this happened as part of the update on arsenic and lead activities.

Karen Pickett of Asarco, who lives near the former Ruston smelter, asked Task Force members and the agencies to consider that its impact on communities such as hers could be considerable and that a lot will depend on how the agencies present to and interpret information for the public. She expressed concern that the Task Force and agencies might apply different standards for contamination caused by smelter emissions, where there may be a perception of a “deep pocket” to pay for cleanup activities, than for contamination from agricultural pesticides, though there might be similar impacts to both types of communities.

Update on Other Arsenic and Lead Activities

Jim Pendowski of Ecology reviewed recent Department activities related to arsenic and lead soil contamination, including sampling efforts in Pierce and King Counties within the Tacoma smelter plume, Okanogan County, Gaillean Park in Yakima, and at Wenatchee and East Wenatchee schools. He also addressed the public comment about the storm-water advisory group, noting that the Department does not believe that area-wide soil contamination is a strategic policy issue for water quality at this time, and so the proposed draft permit will not reference area-wide soil contamination.

Jude Van Buren of the Department of Health and Mr. Pendowski both noted a meeting the agencies had with Paul Isaki of the Governor’s office about the project, including the letter that would be coming from the Task Force co-chairs on health monitoring and concerns expressed about confirmation sampling. Ann Wick of the Department of Agriculture explained that residential uses of wood treated with chromated copper arsenate (CCA) are being phased out within the next two years. The Office of Community Development had no arsenic- or lead-related activities to report on.

Communication Report and Forecast

Only a few Task Force members had communication activities to report at this meeting. Ecology has had some discussions with legislators and the Governor’s office about the project and has answered questions about its current activities, including the site assessment grant for Okanogan County, but has had no press contacts in the last month. Task Force member Steve Marek noted that Pierce County is considering how to release new information that will become available on sampling results from within the

Tacoma smelter plume. Finally, Ann Wick mentioned that the Department of Agriculture would be updating the Pesticide Advisory Board about the project.

Discussion of the Model Toxics Control Act

Task Force members Ray Paolleta, Craig Trueblood, and Loren Dunn gave a presentation on the Model Toxics Control Act. They described the history of the development of MTCA, its overall liability scheme, central features of the MTCA regulations, how Ecology drives cleanup actions, what constitutes a contaminated site, what cleanups involve, who performs and who pays for cleanups, and exemptions from liability.

Modeled after the federal Superfund law, MTCA established a tax on hazardous substances to fund Ecology's operations and a strict, joint, and several liability scheme to ensure that responsible parties fund cleanups. The MTCA regulations, which were designed to be flexible, provide the foundation for the state's cleanup program and include policies for investigating, listing, and prioritizing contaminated sites; general and site-specific soil cleanup standards; and a voluntary cleanup program. Private parties perform most cleanups in the state—either voluntarily to secure no further action (NFA) letters or other liability comforts/protections from Ecology through the voluntary cleanup program or as a result of Ecology's enforcement actions at contaminated sites. Ecology has chosen to address the worst and willing sites first and tends not to take enforcement actions against homeowners. Under MTCA, liable parties consist of current property owners/operators, owners/operators at the time of release, and arrangers, transporters, and sellers of hazardous substances. There are exemptions from liability for "innocent landowners," non-negligent residential users of pesticides, people who apply pesticides for food production, and lenders, although sometimes non-liable parties such as lenders can be practically motivated to perform cleanups in order to be able to sell properties.

Task Force members asked a number of clarifying questions of the presenters about MTCA and Ecology's policies, particularly with regard to liability, enforcement discretion, reporting requirements, and the listing of sites on the contaminated sites list. As well as additional information on some of these issues, Task Force members noted that it would be useful to hear Ecology's perspective on how the cleanup program currently works at area-wide soil contamination sites.

Wrap Up

In closing the meeting, Bill Ross of Ross & Associates asked Task Force members to consider the questions in the project map and noted that discussions on those issues would be accelerating through small group conference calls and future Task Force meetings. He also suggested that the Task Force look at the report and summary materials on the New Jersey Historic Pesticide Contamination Task Force to learn about what a similar group has done on this issue.

Next Steps

- After revising it based on the Task Force's comments, the Task Force co-chairs will send a letter to the chartering agencies to request additional lead and arsenic health monitoring for Washington residents.
- The contractor support team will distribute a revised project map, the revised health letter, and updated contact information to the Task Force.
- Task Force members will participate in small group conference calls with agency and contractor support staff on the topics of nature and extent of contamination, protective measures, institutional frameworks, and funding. The immediate focus will be on the first two groups—nature and extent and protective measures—which will each have at least one conference call before the next Task Force meeting.
- The next Task Force meeting will be on September 24 in Wenatchee.

Meeting Materials

- Agenda
- Updated Task Force roster
- Summary of June 12 Task Force meeting
- Area-Wide Soil Contamination Project Sampling Issues handout
- Preliminary Estimates of Area-Wide Contamination Impacts for Washington Smelters
- Yakima County Historical Apple Orchard Acreage Chart
- Peak Year Acres for Apples and Pears
- Draft letter from the Task Force co-chairs requesting increased health monitoring
- Draft Project Map
- Comments from Jim Hazen, Craig Trueblood, and Ken Stanton on health letter and project map
- Update on Blood Lead Testing handout
- Example letters from the Department of Health to local health departments about blood lead test results
- Associated Lead and Arsenic Related Activities handout
- EPA press release about treated wood containing arsenic
- Model Toxics Control Act presentation
- Types of Protective Measures
- Fact Sheet on Historic Pesticide Contamination developed for the New Jersey Historic Pesticide Contamination Task Force
- Final Report of the New Jersey Historic Pesticide Contamination Task Force
- Summary of the New Jersey Historic Pesticide Contamination Task Force Recommendations

Members in Attendance

Katherine Bridwell, SAFECO

Jon DeJong, Wenatchee School District

Loren Dunn, Riddell Williams for Washington Environmental Council

Ted Gage, Washington State Office of Community Development

Steve Gerritson, Sierra Club

Steve Kelley, Windermere Real Estate, Wenatchee

Steve Marek, Tacoma/Pierce County Health Department

Scott McKinnie, Far West Agribusiness Association
Laura Mrachek, Cascade Analytical
Jim Pendowski, Washington State Department of Ecology
Frank Peryea, Washington State University Tree Fruit Research and Extension Center
Ray Paoella, City of Yakima
Marcia Riggers, Washington State Office of the Superintendent of Public Instruction
Paul Roberts, City of Everett
Ken Stanton, Douglas County Commission
Craig Trueblood, Preston Gates & Ellis
Jude Van Buren, Washington State Department of Health
Mike Wearne, Washington Mutual Bank
Ann Wick, Washington State Department of Agriculture

Members Unable to Attend

Jim Hazen, Washington Horticultural Association
Randy Phillips, Chelan-Douglas Health District

Consultant Support

Kris Hendrickson, Landau Associates
Julie Wilson, Landau Associates
Lori Ahouse, Ross & Associates Environmental Consulting
Elizabeth McManus, Ross & Associates Environmental Consulting
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